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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,463	10/31/2003	Samuel A. Best	SB-101US	2801

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JANSSON, SHUPE, MUNGER & ANTARAMIAN, LTD  
245 MAIN STREET  
RACINE, WI 53403

EXAMINER
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COLLINS, MICHAEL

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 05/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/699,463

Applicant(s)

BEST, SAMUEL A.

Examiner

Michael K. Collins

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/24/2004</u>   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. This is a first action on the merits of application 10/699,463.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,2,4,8,11-13,15 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor et al. (USP 5,353,950).

Regarding claim 1, Taylor et al. discloses a trash bag dispenser for use with a series of trash bags and a receptacle, the bag dispenser comprising:

- a receiving cavity (15) for receiving the series of trash bags (20)
- a cover (13A) including a slot (14) for allowing trash bags (20) to be removed from the receiving cavity (15)
- a contact surface (13B) preventing separation between the dispenser (10) and the receptacle (12) during removal of trash bags (20) from the cavity (15)

whereby, a first trash bag (22) is removed from the receiving cavity through the slot (14) and arranged in the receptacle (12) to hold trash and is removed from the receptacle causing a second trash bag to be removed from the receiving cavity (15) through the slot (14) to allow arrangement of the second trash bag in the receptacle to hold trash (42).

Regarding claim 2, Taylor et al. discloses the trash bag dispenser of claim 1 wherein the contact surface includes an attachment portion, which attaches to the receptacle (see column 1 lines 32-34).

Regarding claim 4, Taylor et al. discloses the trash bag dispenser of claim 2 wherein the attachment portion includes adhesive (see column 1 lines 32-34).

Regarding claim 8, Taylor et al. discloses the trash bag dispenser of claim 1 wherein the receptacle (12) includes a chamber having an opening (see Figure 1); the cavity (15) being received in the chamber, the opening for allowing trash bags (20) to be transferred from the receiving cavity (15) to the receptacle (12).

Regarding claim 11, Taylor et al. discloses in combination, a trash receptacle (12), a trash bag dispenser (10) and a series of trash bags (20), the dispenser being received by the trash receptacle and including a cavity (15) for holding the series of trash bags (20) and a cover (13A) including a slot (14) for allowing trash bags (20) to be removed from the receiving cavity(15), the receptacle (12) and dispenser (10) being arranged to prevent separation between the dispenser (10) and the receptacle (12) during removal of trash bags (20) from the cavity (15) such that as a first bag (22) is removed from the receptacle (12) a second bag is transferred from the dispenser to the receptacle (12).

Regarding claim 12, Taylor et al. discloses the combination of claim 11 wherein the dispenser includes a contact surface (13B), which prevents separation between the dispenser and the receptacle during removal of trash bags from the cavity (see column 1 lines 32-34).

Regarding claim 13, Taylor et al. discloses the combination of claim 12 wherein the contact surface (13B) includes an attachment portion (36), which attaches to the receptacle (12).

Regarding claim 15, Taylor et al. discloses the combination of claim 13 wherein the attachment portion includes adhesive (36).

Regarding claim 19, Taylor et al. discloses the combination of claim 11 wherein the receptacle (12) includes a chamber having an opening (see Figure 1), the cavity (15) being received in the chamber, the opening for allowing trash bags (20) to be transferred from the cavity (15) to the receptacle (12).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 5,6,16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. (USP 5,353,950) in view of Ker (USP 5,322,180).

Regarding claim 5, Taylor et al. discloses all of the elements of claim 1. However, he does not disclose the cover to be releasably attached to the cavity to allow the series of trash bags to be positioned in the cavity. Ker discloses a trash bag dispenser with a cover (3) that is releasably attached to the cavity (20) to allow the series of trash bags (4) to be positioned in the cavity (20) for the purpose of enabling a user to easily pull out the garbage bags by hand (column 2 lines 29-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Taylor et al. by including a cover that is releasably attached to the cavity to allow the series of trash bags to be positioned in the cavity, as disclosed by Ker, for the purpose of enabling a user to easily pull out the garbage bags by hand.

Regarding claim 16, Taylor discloses the combination of claim 11. As in the previous paragraph, Ker discloses the cover that is releasably attached to the cavity to allow the series of trash bags to be positioned in the cavity.

Regarding claim 6, Taylor et al. discloses the trash bag dispenser of claim 1. He also discloses the cavity to have a bottom (13B) that includes a contact surface (36). However, he does not disclose the cavity to include four side walls. Ker discloses a trash bag dispenser with four side walls (see Figures 2 and 4) for the purpose of housing garbage bags (see column 2 line 21). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Taylor et

al. by including a dispenser with four side walls, as disclosed by Ker, for the purpose of housing garbage bags.

Regarding claim 17, Taylor discloses the combination of claim 11. As in the previous paragraph, Ker discloses the cavity which includes a bottom and four side walls.

7. Claims 7 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. (USP 5,353,950) in view of Yurko (USP 4,721,226).

Regarding claim 7, Taylor et al. discloses the trash bag dispenser of claim 1. However, he does not disclose a cover that has a perimeter which fits the inner circumference such that the cover encloses the bottom end when positioned in the receptacle. Yurko discloses a cover that has a perimeter which fits the inner circumference such that the cover encloses the bottom end when positioned in the receptacle (see Figures 1-3) for the purpose of retaining the dispenser (see column 3 line 14). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Taylor et al. by including a cover that has a perimeter which fits the inner circumference such that the cover encloses the bottom end when positioned in the receptacle, as disclosed by Yurko, for the purpose of retaining the dispenser.

Regarding claim 18, Taylor et al. discloses the combination of claim 11. As in the previous paragraph, Yurko discloses the receptacle that has a bottom end with an inner circumference and the cover that has a perimeter, which fits the inner circumference such that the cover encloses the bottom end when positioned in the receptacle.

8. Claims 9-10, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. (USP 5,353,950) in view of Falk (USP 5,458,259).

Regarding claim 9, Taylor et al. discloses the trash bag dispenser of claim 8. However, he does not disclose the cover to include the contact surface. Falk discloses a trash bag dispenser for use with a series of trash bags and a receptacle, the bag dispenser with a cover (12) to include the contact surface for the purpose of improving the ease with which one can replace liner bag supplies in a trash receptacle (see column 1 lines 45-47). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Taylor et al. by including a cover which includes the contact surface, as disclosed by Falk, for the purpose of improving the ease with which one can replace liner bag supplies in a trash receptacle.

Regarding claim 10, Taylor et al. discloses the trash bag dispenser of claim 8. However, he does not disclose the receptacle to include the cover and the opening to be the slot. Falk discloses a trash bag dispenser for use with a series of trash bags and a receptacle, where the receptacle includes a cover (12) and the opening is a slot (28) for the purpose of improving the ease with which one can replace liner bag supplies in a trash receptacle (see column 1 lines 45-47). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Taylor et al. by including the cover in the receptacle with the opening to be the slot, as disclosed by Falk, for the purpose of improving the ease with which one can replace liner bag supplies in a trash receptacle.



Regarding claim 20, Taylor et al. discloses the combination of claim 19. As stated above, Falk discloses a cover that includes a contact surface.

9. Claims 3 and 14 rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. (USP 5,353,950) in view of Windle (USP 6,123,215).

Regarding claim 3, Taylor et al. discloses the trash bag dispenser of claim 2. However, he does not disclose the attachment portion and receptacle to include a hook and loop fastener arrangement. Windle discloses an attachment portion with a receptacle that includes a hook and loop fastener arrangement for the purpose of being integrally formed with the receptacle (see column 6 lines 15-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Taylor et al. by including an attachment portion with a receptacle that includes a hook and loop fastener arrangement, as disclosed by Windle, for the purpose of being integrally formed with the receptacle.

Regarding claim 14, Taylor et al. discloses the combination of claim 13. As in the previous paragraph, Windle discloses the attachment portion and receptacle to include a hook and loop fastener arrangement.

### ***Conclusion***

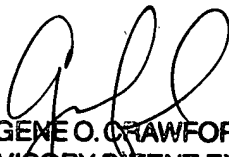
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael K. Collins whose telephone number is (571) 272-8970. The examiner can normally be reached on 8:30 am - 5:00 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M.C.  
5/5/2006

  
GENE O. CRAWFORD  
SUPERVISORY PATENT EXAMINER